

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

JAMES PRESTON SMITH,

Plaintiff,

v.

CIVIL ACTION NO. 5:06-cv-00645

UNITED STATES OF AMERICA and  
ALCOHOL TOBACCO AND FIREARMS,

Defendants.

**MEMORANDUM OPINION**

By Standing Order entered on August 1, 2006, and filed in this case on August 17, 2006, this action was referred to United States Magistrate Judge Mary E. Stanley for submission of proposed findings and a recommendation (PF&R). On September 5, 2006, Magistrate Judge Stanley filed a joint PF&R\* [Docket 3], recommending that this Court **FIND** that each pending matter amounts to a request for collateral review without certification by the United States Court of Appeals for the Fourth Circuit, **FIND** that those requests are untimely and successive, **FIND** that Petitioner is barred from presenting these issues again via a petition for habeus corpus, **DISMISS** the petitions in each of the above-styled actions, and remove this matter from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to

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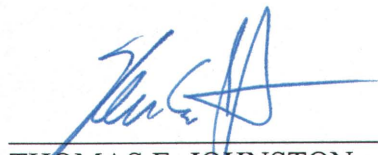
\* The magistrate judge also addressed Case Nos. 5:06-cv-00479; 5:06-cv-00480; and 5:06-cv-00481, however, the Court dismissed those cases in a Judgment Order entered on March 28, 2007.

which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due in this case by September 22, 2006.

On October 10, 2006, more than two weeks past the deadline for filing objections, Petitioner filed two sets of “Objections” [Dockets 5 and 7]. Not only are Petitioner’s filings untimely, they exhibit a complete failure to object to any proposed findings of fact or recommendation of the magistrate judge. The Court is not required to consider objections filed after the deadline, especially when the objections are not addressed to the findings or recommendation contained in the PF&R. Thus, Petitioner’s objections are **OVERRULED**, and the Court **ADOPTS** the recommendation contained in Magistrate Judge Stanley’s PF&R.

Accordingly, Petitioner’s Complaint [Docket 1] is hereby **DISMISSED**. A Judgment Order will enter this day implementing the rulings contained herein.

ENTER: March 10, 2008



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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE